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NEWS IN PERSPECTIVE

REGULATION

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The U.K. is up in arms over new U.S. distribution license regulations.

by Nick Anning

The latest provisions of the U.S. Export Administration Act (EAA), which came into force on April 24, have again raised the thorny issue of the extraterritorial reach of U.S. export law in Europe.

What's more, the new EAA distribution license regulations for U.S. high-tech multinationals and their foreign-based subsidiaries have led to allegations of CIA involvement and breaches of national sovereignty, particularly in the U.K. That issue apparently featured high on the agenda of recent talks in Washington between U.K. trade minister Paul Channon and his U.S. counterpart, Commerce secretary Malcolm Baldrige.

Channon's visit came shortly after two opposition members of the U.K. Parliament had laid down a fresh challenge to the U.S.'s insistence that it has the right to police reexports from the U.K. of U.S.-originated high tech to the Eastern Bloc and a number of other embargoed destinations. Most European nations contend that their membership in Cocom, the Paris-based body that coordinates security export policies, makes such action by the U.S. unnecessary.

Paddy Ashdown, a trade spokesman for the U.K. minority opposition Liberal party, alleged in a recent letter to Prime Minister Margaret Thatcher that the new distribution license provisions represent "an additional and much more powerful layer of control claimed by the U.S. over British firms operating in Britain." The new regulations, Ashdown believes, could give the U.S. control of 70% of the U.K.'s high-tech and computer trade.

Ashdown is concerned that employees of U.K. companies to which the new distribution license regulations apply could find their right to travel in Britain and elsewhere curtailed because they are privy to high-tech know-how gained in the course of their work with U.S. equipment. According to Ashdown, the regulations mean that hardware and software within the U.K. that contain any U.S. components will be subject to U.S. law. In addition, Department of Commerce offi-

cials would be given automatic access to the books of U.K. high-tech companies trading in such equipment.

Ashdown's most serious allegation, however, concerns the way in which U.S. government agencies have been made responsible for getting U.K. end users of U.S. computers to comply with U.S. export laws. Officially, this is the job of the Department of Commerce and the U.S. Customs Service, but Ashdown implies the CIA has also become involved.

The charge apparently arises from the work of a Washington committee on foreign technology control, which includes representatives from the CIA and the Pentagon's Office for International Security Policy. Sources at the U.S. embassy in London have denied the CIA plays any part in policing high-tech exports, but the mere suggestion of CIA involvement has led to serious misgivings in Europe. Britain's attorney general, Sir Michael Havers, has already conceded publicly that U.S. claims for the extraterritorial reach of its export laws are "wholly unacceptable" and are an infringement of U.K. sovereignty.

Major U.K. government departments have officially rejected any extraterritorial restraints when buying U.S. computers through their main procurement body, the U.K. Treasury's Central Computer and Telecommunications Agency (CCTA). Ministers have also noted that the Department of Commerce Denials List, the index of companies and traders that have infringed U.S. trade law and

The U.K. has so far refused to admit Department of Commerce teams wishing to inspect the accounts and order books of U.K. high-tech companies.

with whom it is an offense for U.S. companies or their subsidiaries to trade, has no force in British law.

U.K. Treasury minister Peter Brooke stated last month that it would be "inappropriate for the CCTA to accept a contractual commitment limiting the freedom of action of the British government in relation to information technology products. . . . Attempts are often made," he went on, "to pass on to British government departments the export provisions which the U.S. administration exacts on commercial concerns, but the CCTA has not accepted any constraints."

If this is the official government line, representatives of the U.K. high-tech industry argue privately, then they see no reason to be restricted themselves.

Meanwhile, the U.K. government has so far refused to admit official Department of Commerce teams wishing to inspect the accounts and order books of

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NEWS IN PERSPECTIVE

U.K. high-tech companies with U.S. parents or oem agreements. The Department of Trade and Industry in London has sent out a new questionnaire on the subject to all representative associations in the high-tech trade, but no timetable has been set to discuss the response.

Now Paddy Ashdown has brought matters to a head by tabling a detailed motion to be debated in Parliament shortly. "The new regulations," states Ashdown's motion, "are an infringement of U.K. sovereignty, something not at all far removed from treachery. It is essential that the British government acts forthwith to ensure that the U.K. high-technology industry is protected from attempts at extraterritorial imposition of U.S. law."

Ashdown's Liberal party colleague Michael Meadowcroft has injected fuel into the debate by taking up the case of Systime, Britain's second-largest computer firm, which is based in his constituency city of Leeds in northern England.

Systime was for several years a successful Digital Equipment oem, but recently it has run into a series of setbacks—not the least of which was a \$400,000 fine imposed by the Department of Commerce in Washington for trading with Iraq, Pakistan, and South Africa. Meadowcroft alleges, on the basis of a detailed dossier of evidence that he has now submitted to the Department of Trade and Industry in London, that Systime's troubles came about largely because of a campaign by Digital's British subsidiary,

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DEC U.K., to put it out of business.

The official response has been that any evidence of illegal moves by DEC would be fully investigated. In the meantime, the semi-independent Office of Fair Trading is mounting its own investigation. DEC U.K.'s public affairs manager, Marcus Palliser, says DEC hasn't been informed of the Fair Trading investigation. He also says DEC won't respond in detail to the Meadowcroft charges "because we haven't been privy to the evidence Meadowcroft claims to have. But we reject the allegations completely. They are wide of the mark and damaging as well."

Palliser notes that DEC and Systime have been engaged in legal tussles over the last several years. In 1983, DEC U.K. sued Systime, claiming that Systime violated DEC's VMS license. Systime settled the suit that same year with a \$5.5 million payment to DEC. Palliser also says that in 1984, DEC found evidence of hard-

ware copyright infringement by Systime, relating to VAX memory boards, and sued the company for 5 million pounds (\$7.1 million). A settlement, under which Systime will transfer its VAX-based "D" series business to DEC, was worked out earlier this year.

U.K. academics too are refusing to be bound by U.S. regulations on the use of and access to American-made supercomputers. In two recent cases, U.K. university research departments have tangled with the U.S. authorities over their

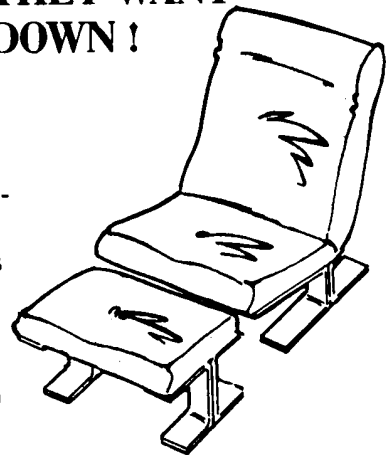
refusal to sign undertakings on the manner in which their equipment will be used and who will have access to it.

With the academic community and the U.K. high-tech industry both balking at Washington's instructions and government ministers protesting, the apparent good will gained by Britain for supporting the raids on Libya could evaporate overnight. ©

Nick Anning is a free-lance writer based in Britain.

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